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**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

Case #: MPA - 175464

PRELIMINARY RECITALS

Pursuant to a petition filed on July 8, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability regarding Medical Assistance (MA), a hearing was held on September 16, 2016, by telephone. A hearing scheduled for August 10, 2016, was rescheduled at the petitioner's request.

The issue for determination is whether the petitioner is entitled to medical assistance reimbursement for an MRI of his lumbar spine.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]

Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES #) is a resident of Taylor County.

2. The petitioner's physician submitted a request for an MRI of his lumbar spine on June 15, 2016. The department's medical consultant, EviCore, denied the request on June 20, 2016.
3. The petitioner has a history of back pain. He has not received a recent MRI or other scan to determine the origin of the pain.
4. The petitioner began experiencing sharp pain in his lumbar spine. He first saw a physician for this episode on June 7, 2016.
5. The petitioner's back pain is aggravated by bending, daily activities, reaching, sitting, standing, twisting, weather changes, and work. He has numbness in his legs and pain at night. He does not report weakness, incontinence, sexual dysfunction, fever or chills, or unexplained weight loss. It is alleviated for a day or two by chiropractic care.
6. The petitioner did not receive six weeks of physician-guided treatment or conservative care before his request was submitted.
7. The petitioner does not exhibit significant motor weakness, a recent malignancy or infection, Cauda Equine syndrome, spinal cord pathology. He is not seeking surgery.

DISCUSSION

Medical assistance covers physician-prescribed diagnostic services if they are consistent with good medical practices. Wis. Admin. Code, §§ DHS 107.06(1) and 107.25. In an effort to ensure that CT, MRI, MRA, and PET scans are consistent with good medical practice, the department requires prior authorization before paying for them. *See MA Update, #2010-92.*

There are several reasons for requiring prior authorization, the most important of which when evaluating imaging requests are "to safeguard against unnecessary or inappropriate care and service; to safeguard against excess payments;...and to determine if less expensive alternative care, services or supplies are usable..." Wis. Admin. Code, § DHS 107.02(3)(b)1., 2., and 4. Like any request for a medical assistance service, the requests for scans must be medically necessary. Wis. Admin. Code, § DHS 107.02(3)(e)1. A service is medically necessary if, among other things, it is "appropriate with regard to generally accepted standards of medical practice," "of proven medical value or usefulness," and "cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient." Wis. Admin. Code, § DHS 101.03(96m)(b)3, 5, and 8.

The petitioner requested an MRI of his lumbar spine to diagnose severe back pain. Guidelines for MRIs of the lumbar spine require that, if the pain does not have neurological features, the recipient must show that he has had a six-week trial of physician-directed treatment or other meaningful contact within the three months before his request, and that this treatment or contact has not alleviated the pain. *Guideline SP 5.1.* The neurological conditions, referred to in the guidelines as "red flag" indications, are found in *Guideline SP-1.2.* They are aortic aneurysm or dissection, cancer, infection, Cauda Equina Syndrome, fracture, and motor weakness.

The petitioner has had back pain before, but he first saw a doctor for the most recent episode on June 7, 2016. His physician requested the MRI on June 15, 2016, so the petitioner did not first receive six weeks of care. Although his pain is severe, his diagnosis and symptoms do not include any of the red flag indications found in *Guideline SP-1.2.* Therefore, I must uphold the department's denial. I note, however, that nothing prevents his physician from submitting another request if he can document six weeks of treatment in the three months before the request.

CONCLUSIONS OF LAW

The department correctly denied the petitioner's requested MRI because he has not proved by the preponderance of the evidence that it is medically necessary.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

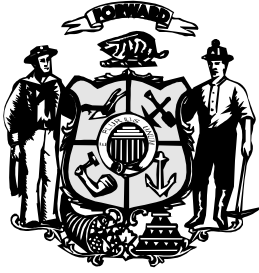
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 25th day of October, 2016

\s _____
Michael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 25, 2016.

Division of Health Care Access and Accountability